

Subject: WPH Violations Regarding 3acre Bird Roost
Date: Tuesday, January 23, 2018 at 3:00:10 PM Pacific Standard Time
From: Michelle Bothof
To: ReceptionDesk@BCDC, Zeppetello, Marc@BCDC, ReceptionDesk@BCDC
CC: Michelle Bothof
Attachments: bird_2.jpg, bird_3.jpg

Dear Staff, Committe, & Commissioners of BCDC,

As an avid boater and birder and having watched Westpoint Harbor from the earliest days to today, I and am sending this letter to clarify allegations made by a third party which are at best, uninformed, and which became part of the BCDC Cease and Desist Order. Three CEQA mitigation measures concern shorebird habitat and wetlands mitigation as follows:

CEQA required the **loss of a 3 acre shorebird roost area** in bittern storage Pond 10 be replicated elsewhere, and this requirement is mirrored in the BCDC permit for Westpoint Harbor. Pond 10 was sterile with a high spot which afforded migratory birds a roost area from time-to-time depending on the season, safe from predators and the toxic bittern. This high spot was residue from an early cement factory a few inches higher than the rest of the pond. as reported in an EIR at the time. Knowing Westpoint did not own any land for this mitigation, Cargill accepted responsibility to recreate this roost habitat, in writing. This was accepted by CEQA in 2002 as satisfaction of this mitigation measure and as the BCDC permit states, Sanders has no responsibility to provide the 3 acre habitat, it is up to Cargill.

Cargill did so on the remainder of Pond 10 south of Westpoint Harbor. Because all the bittern had to be removed, the entirety of Pond 10 (60 acres) in fact became roost habitat, far better and larger than the three acres lost. I have visited the site hundreds of times and thrill to see thousands of birds over dozens of acres, safe. Below are a photos taken today. The "borrow ditch" is clear, making the most of the pond an island, further protecting shorebirds. This pond maintains a depth of a few inches from rain, managed by Cargill gates and valves, and has served as a wonderful shorebird roost for sixteen years. It fully and completely satisfies the intent and language in all Westpoint permits including BCDC, yet BCDC, fifteen years after its permit was approved, now claims a failure to create this shorebird roost habitat.

A second condition is a **"Visual Setback"** between the shorebird roost area and public areas of Westpoint Harbor. It can be a physical setback of 85 feet or more, or a combination of a smaller setback and landscaping. Importantly, USFWS stressed a fence would be disastrous by providing a location for predator birds to work from. The distance between the parking area and the closest part of pond 10 is 85 feet, so now landscaping needed. This is good because this levee is hyper-saline and little grows other than Pickweed. More importantly, the roost area is vast, and for the most part is many hundreds of feet away from the marina. So the visual barrier is far more extensive than the permits anticipated, and again underachievement of its intent and purpose. This too is perfectly clear in the photos, where birds are approximately 1000 feet from the harbor.

A third condition is to **mitigate the loss of .27 acres of wetland** area in the storm-water ditch between Pacific Shores and Westpoint Harbor. This was necessary to build the Bay Trail crossing between the two properties, another permit request (it was not a requirement as the harbor did not own the rights to a crossing). it was a good reason, and the solution approved in the CEQA process was to redress the east side of the ditch from 1:1 to 3:1, creating more wetland area in this brackish area (salt water in summer and fresh water in winter). Westpoint harbor not only redress the eastern side over the entire length, it redressed the ditch all the way around Pacific Shores Center to Seaport Boulevard, far more than the permit required. This was because a requirement for a secondary (emergency access road) was required, and it is adjacent to the same ditch. Once again, far more mitigation than required. A new

claim that flap gates originally envisioned by CEQA in the pipes under road crossings are missing. I am informed by the Civil Engineer that this was a change approved in the CEQA process, for sound reasons: The storm ditch is (only) used to accept stormwater from Pacific Shores Center, and the northern outlet was insufficient to handle serious rain so Pacific Shores and Redwood City installed a pump station at the western end of the ditch to accommodate the overage. Knowing the flap gates would defeat this purpose, they were deleted and instead the northern flap gate was increased in size as shown on the Site Preparation Plans (according to the CE). So again the right thing happened, sixteen years ago, and based on the Public Information Act request, BCDc has no records from this period whatsoever.

So it is abundantly clear, these three mitigation measures and permit conditions were fully satisfied, yet BCDc insists they are violations relying on the testimony of a person well-known in the peninsula for fabricating false environmental claims and reporting them to agencies like BCDc.

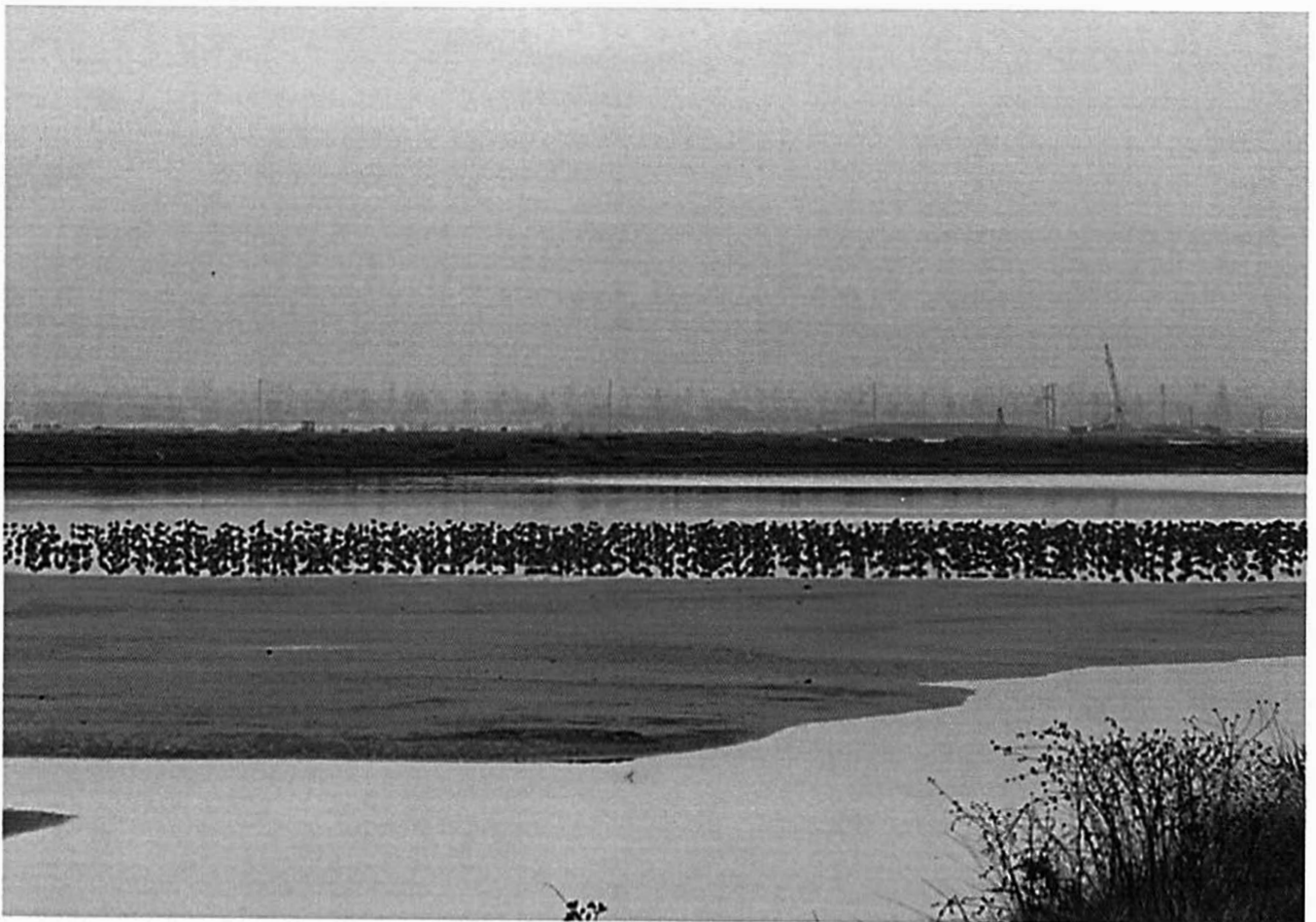
HOW IS THIS POSSIBLE? Is the fair, objective and thorough investigation of the Enforcement Committee really this shallow?

As a person who could be subject to retribution, I send this with some trepidation, but feel its morally compelling for me to speak up.

Respectfully,

Michelle Bothof

CC: Staff at BCDc





Subject: West Point Harbor, BCDC enforcement actions, my own personal experience with this harbormaster has been consistently very unpleasant

Date: Monday, January 22, 2018 at 7:56:37 PM Pacific Standard Time

From: Dave Gee

To: Zeppetello, Marc@BCDC, ReceptionDesk@BCDC

Dear Mr. Zappetello - I am prompted to write you following the Jan 18 article in The San Mateo Daily Journal about West Point Harbor, BCDC enforcement, and the West Point harbormaster Mr. Mark Sanders. I am a long-time RWC homeowner and boat owner.

Over the last ten years I have had three intimidating and unpleasant encounters with Mr. Mark Sanders

I first sailed through the marina about ten years ago when there were barely any boats in the harbor. My crew and I were yelled at and told under no circumstances was I ever to venture into this harbor again. Mr. Sanders then went to the sailing school down the road, whose boat I was sailing, and complained to the sailing school management.

Many years later my wife and I took a (or rather tried to) walk through West Point Marina and were told to leave by Mr. Sanders.

I once drove my car through West Point Marina and was told to turn around and leave almost immediately.

I do not fully understand the issues between WPH and BCDC but my own personal experiences with Mr. Sanders is a belligerent prick and does not let anyone near his marina.

If you have questions about this or need more information please feel free to write me back.

Thank you,
-Dave Gee
Redwood City, CA

From: lancelance@netzero.net [mailto:lancelance@netzero.net] **Sent:** Friday, January 19, 2018 10:13 AM **To:** Zack Wasserman **Subject:** West Point Harbor/Redwood City

Mr. Wasserman - I am a Redwood City resident. I am a cyclist and multiple time over several years I have attempted to cycle into West Point Harbor and immediately was confronted with hostile staff demanding I turn back. Not once, multiple times. The owners have betrayed the public trust and are lying to BCDC. Lance Frey, MA, LCSW (650) 556-3582

[How To Remove Eye Bags & Lip Lines Fast \(Watch\)](http://thirdpartyoffers.netzero.net/TGL3242/5a62358af2949358a1b3ast03duc)

[Fit Mom Daily](http://thirdpartyoffers.netzero.net/TGL3242/5a62358af2949358a1b3ast03duc)

<http://thirdpartyoffers.netzero.net/TGL3242/5a62358af2949358a1b3ast03duc>

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Thank you for considering the environment before printing this e-mail.

Subject: Dispute over Redwood City harbor | Local News | smdailyjournal.com

Date: Thursday, January 18, 2018 at 10:16:47 AM Pacific Standard Time

From: Bob Wilson

To: Zeppetello, Marc@BCDC, zwasserman@wendel.com, melrgilmore@gmail.com, dpine@smcgov.org, sranchod@tesla.com, greg.scharff@cityofpaloalto.org, jtechel@cityofnapa.org, Greg Ballard

CC: Ken Castle, paulien@ruijssenaars.com, Asma Stewart, Gordon R. Mowat

I wanted to advise you all of yet another article based on independent reporting that was published this morning just as we arrived at the BCDC Enforcement hearing. I realize this is late in coming but we ask you consider this important input.

This is further independent input regarding Westpoint Harbor supporting my and many other's contention that BCDC Staff is not providing the needed facts in this issue. Please take this input as further reason to bring in a mediator to this important case. As seen again and again, BCDC staff is not capable of resolving even the most obvious issues. Please defer any further orders until we get indephdent mediators involved. Your Staff is not serving you well or the citizens of California.

Thanks in advance and PLEASE visit Westpoint Harbor soon to see how important an asset it is to the SF Bay community!

https://www.smdailyjournal.com/news/local/dispute-over-redwood-city-harbor/article_0e5df5e8-fc07-11e7-be27-6714727a0205.html

Bob Wilson

bobw2654@gmail.com

650-678-7359

www.cinova.com

From: Robbie <robbie411@gmail.com>

Date: Wednesday, January 17, 2018 at 7:55 PM

To: Marc Zeppetello <marc.zeppetello@bcdc.ca.gov>, "ReceptionDesk@BCDC" <reception@bcdc.ca.gov>

Subject: Proposed Order No. CDO 2017.04

To the BCDC Enforcement Committee:

In the matter of Westpoint Harbor Proposed Order No. CDO 2017.04, I am writing to express my support for the Westpoint Harbor (WPH) marina and request that BCDC carefully consider all options to work with the marina to achieve the public access and environmental goals of this privately funded marina.

I have accessed the Bay via the WPH walkways, boat launch, docks, or other facilities at WPH 1529 Seaport Blvd, Redwood City, CA 94063.

It appears that BCDC permit requirements, including those for unbounded public pedestrian access, at WPH were put in place to provide an enforcement trigger rather than to enhance the benefits of the public or environment.

I believe that WPH owners and employees have consistently taken actions to protect and improve the Bay environment, foster and encourage Bay access by pedestrians and boaters alike, protect the personal security and boating safety of boaters in the harbor, and encourage safe boating in the San Francisco Bay. It greatly concerns me that the BCDC appears to have undertaken a series of arbitrary and capricious actions that simultaneously harm public access to the Bay while purposefully seeking to cause financial harm and undermine the success of a privately owned marina.

Please start the process of working WITH the WPH marina for successful Bay access and conservation rather than trying to shut down the excellent public access and environmental improvements to the Bay at the site of the WPH.

Sincerely,

Robbie Lee

From: Schooner Mahdee <schoonermahdee@gmail.com>
Date: Wednesday, January 17, 2018 at 6:48 PM
To: Marc Zeppetello <marc.zeppetello@bcdca.gov>
Subject: FROM BRENDA HATTERY Fwd: Westpoint Harbor CDO 2018.01 and Fwd: Westpoint Harbor Proposed Order No. CDO 2017.04

Here's a round-about way of getting the email to you, Marc. Please advise if you receive it.

----- Original Message -----

Subject: Fwd: Westpoint Harbor CDO 2018.01 and Fwd: Westpoint Harbor Proposed Order No. CDO 2017.04
Date: 2018-01-17 16:52
From: Brenda Hattery <brenda.hattery.wg00@wharton.upenn.edu>
To: ReceptionDesk@bcdca.gov, Zeppetello.Marc@bcdca.gov, Marc.Zeppetello@bcdca.gov

Dear Mr. Zeppetello:

Please include my email and .pdf attachments in the public record for the matter of Westpoint Harbor CDO 2018.01

Thank you,
Brenda Hattery
[202.726.1994](tel:202.726.1994)

----- Original Message -----

Subject: Westpoint Harbor CDO 2018.01 and Fwd: Westpoint Harbor Proposed Order No. CDO 2017.04
Date: 2018-01-16 14:05
From: Brenda Hattery <brenda@windwardho.com>
To: ["zwasserman@wendel.com"](mailto:zwasserman@wendel.com) <zwasserman@wendel.com>; ['ahalsted@aol.com'](mailto:ahalsted@aol.com) <ahalsted@aol.com>, ["mark.addiego@ssf.net"](mailto:mark.addiego@ssf.net) <mark.addiego@ssf.net>, ["newsha.ajami@gmail.com"](mailto:newsha.ajami@gmail.com) <newsha.ajami@gmail.com>, ["josharce.bcdc@gmail.com"](mailto:josharce.bcdc@gmail.com) <josharce.bcdc@gmail.com>, ["brush.jason@epa.gov"](mailto:brush.jason@epa.gov) <brush.jason@epa.gov>, ["tom.butt@intres.com"](mailto:tom.butt@intres.com) <tom.butt@intres.com>, ["wilma.chan@acgov.org"](mailto:wilma.chan@acgov.org) <wilma.chan@acgov.org>, ["chappelljim@att.net"](mailto:chappelljim@att.net) <chappelljim@att.net>, ["Malia.Cohen@sfgov.org"](mailto:Malia.Cohen@sfgov.org) <Malia.Cohen@sfgov.org>, ["dconnolly@marincounty.org"](mailto:dconnolly@marincounty.org) <dconnolly@marincounty.org>, ["pcutter@sanleandro.org"](mailto:pcutter@sanleandro.org) <pcutter@sanleandro.org>, ["Jenn.Eckerle@resources.ca.gov"](mailto:Jenn.Eckerle@resources.ca.gov) <Jenn.Eckerle@resources.ca.gov>, ["Katerina.Galacatos@usace.army.mil"](mailto:Katerina.Galacatos@usace.army.mil) <Katerina.Galacatos@usace.army.mil>, ["melrgilmore@gmail.com"](mailto:melrgilmore@gmail.com) <melrgilmore@gmail.com>, ["district5@bos.cccounty.us"](mailto:district5@bos.cccounty.us) <district5@bos.cccounty.us>, ["Susan.Gorin@sonoma-county.org"](mailto:Susan.Gorin@sonoma-county.org) <Susan.Gorin@sonoma-county.org>, ["dhillmer@cityoflarkspur.org"](mailto:dhillmer@cityoflarkspur.org) <dhillmer@cityoflarkspur.org>, ["claire.jahns@resources.ca.gov"](mailto:claire.jahns@resources.ca.gov) <claire.jahns@resources.ca.gov>, ["Jennifer.Lucchesi@slc.ca.gov"](mailto:Jennifer.Lucchesi@slc.ca.gov) <Jennifer.Lucchesi@slc.ca.gov>, ["dan_mcelhinney@dot.ca.gov"](mailto:dan_mcelhinney@dot.ca.gov) <dan_mcelhinney@dot.ca.gov>, ["barry@westernwaterstrategies.com"](mailto:barry@westernwaterstrategies.com) <barry@westernwaterstrategies.com>, ["sheri.pemberton@slc.ca.gov"](mailto:sheri.pemberton@slc.ca.gov) <sheri.pemberton@slc.ca.gov>, ["dpine@co.sanmateo.ca.us"](mailto:dpine@co.sanmateo.ca.us)

<dpine@co.sanmateo.ca.us>, "David.Rabbitt@sonoma-county.org" <David.Rabbitt@sonoma-county.org>, "sranchod@tesla.com" <sranchod@tesla.com>, "sean@bayareacouncil.org" <sean@bayareacouncil.org>, "greg.scharff@cityofpaloalto.org" <greg.scharff@cityofpaloalto.org>, "ksears@marincounty.org" <ksears@marincounty.org>, "jimzspering@cs.com" <jimzspering@cs.com>, "jmvasquez@solanocounty.com" <jmvasquez@solanocounty.com>, "brad.wagenknecht@countyofnapa.org" <brad.wagenknecht@countyofnapa.org>, zwasserman@wendel.com, 'Info' <info@friendsofwestpointharbor.org>
Cc: marc.zeppetello@bcdcc.ca.gov, info@bcdcc.ca.gov, Mark Sanders <mark@westpointharbor.com>, 'Doug Furman' <doug@westpointharbor.com>, wph_cdo201801@startupanywhere.org

Dear Commissioners:

Sorry to have email blasted all of you but I really wanted to make sure that AT LEAST ONE PERSON on the Commission receives my previous input on the Westpoint Harbor CDO 2017.04 and the current input for the CDO 2018.01.

Please see the attached .pdf for the former input (Nov 2016) in the matter of Westpoint Harbor (WPH)

For the latter (present input), I thank you for your time in reading this lengthy email. I especially thank the members of the Enforcement Committee for their time in thoughtfully considering my comments.

I personally looked into the allegations made against WPH last fall. I was concerned, initially, that the owner of the marina where I keep my boat was in hot water with BCDC and he needed to remedy things quickly to come into compliance: protecting the environment and providing public access. I was aware, from my brief 2012 interactions with BCDC's Enforcement's Adrienne Klein and further interactions with Mark Sanders back in that 2012 timeframe that there was animosity between BCDC Enforcement and the Westpoint Harbor. It can be frustrating for a government enforcement person as well as a regulated entity to deal amenability with matters that are not clearing up, so back in 2012, I recall not understanding the situation but having empathy for both BCDC and WPH.

Roll forward to last fall, I only became aware of the proposed CDO 2017.04 at the end of October. Because of my belief that a government entity like BCDC would not make too many mistakes or put forth unfounded allegations, I was concerned for the WPH and I practically grilled Mark Sanders with questions about specifics and had him show me documents and plans as submitted to BCDC -- and explain to me what had happened for many of the allegations. I became very concerned about the numerous staff mistakes and misrepresentation of facts in the violation allegations and CDO 2017.04. So much so that I was certain that much of it would have to be sorted out during the November 16, 2017 Enforcement Committee meeting. I sent the attached .pdf to BCDC (see email addresses below forwarded) and while the non-BCDC recipients acknowledged receipt, my letter was not included as a public comment before or after the meeting by BCDC. So I hope that one of you receives it now and it can finally be placed in the official record.

I learned at the November 16 meeting that Staff recommendations kept all the mistakes and unfounded allegations in the CDO and the Enforcement Committee went through the motions of hearing public comment and the WPH response but really spent more consideration talking about how WPH had to pay at least half of the fines -- because after all, BCDC had INVESTED so much time in creating this case. When BCDC put forth that WPH HAD to pay something because WPH needed to be forced to come into compliance and stop harming the environment and stop preventing public access, I became convinced that no Enforcement Committee members had had time or patience to unravel the truth from the documents placed in front of them. It was ludicrous. I was further appalled that some of the case built up by BCDC was hanging on the creativity of a single member of the public, Mr. Leddy. As I read Mr. Leddy's statements, looked around the harbor, took my boat out into the slough, I saw what I consider a misrepresentation of facts by Mr. Leddy's statements and I saw that BCDC appears to be taking those misrepresentations as fact at face value without considering actual evidence provide by WPH and others. I was, and still am, very concerned about this.

Based on my conversations with the WPH as I was trying to get to the bottom of things for my own understanding, I came to understand that BCDC has no stamping in of submitted plans and related documents and pretty much there is no "proof" that such submittals are received by BCDC or that approvals (often verbal) were provided unless the permittee has a letter or email chain showing the back-and-forth between the parties. Similarly, meetings with the permittee are not always documented with minutes, action items, decisions made, et al.

I see that a lot of the BCDC case should not be valid if BCDC did not follow their internal processes of reviewing submittals, rejecting them or adding comments within a 45 day period following the submittal. Just like the BCDC is holding other permittees to the letter-of-the permit (e.g. Scott's Seafood), BCDC should hold itself to that SAME 100% high standard of operations. This means that several of the allegations against WPH should be dropped from this and any CDO going forward. All allegations where BCDC doubled back changing its earlier decision, trying to impose requirements that were not in the original permit, trying to ignore that submittals with no comments within 45 days are approved plans, and so forth -- these allegations should be dropped. Allegations 1-11, 13-14, 18-22 all include some failure of BCDC process that should render the allegations without merit. This will happen if the Enforcement Committee were able to give the WPH response thoughtful consideration without the singularly guided perspective of the BCDC staff.

Based on my look at the documents, the marina, the obvious information and facts, I truly believe the Enforcement staff literally threw the book at WPH and did it in as much of a confusing way as possible. I also truly believe that the Enforcement Commission has been overly reliant upon BCDC staff and not had the opportunity to properly review the WPH case with all of the salient information presented in an understandable manner.

Overall, I am seeing on the part of BCDC Enforcement:

- + lack of oversight
- + disorganization and ignoring process
- + poorly written permit that can be easily reinterpreted to create fines

- + heavy dependence on a few individuals on a small staff
- + renewed interest in enforcement revenues
- + enforcement bias and targeting

With the WPH permit, BCDC's disorganization included:

- + spotty record-keeping,
- + an absence of timely responses to the permittee's submittals,
- + lack of written communication of the verbal approvals BCDC periodically provided to the permittee,
- + and BCDC's removal of clarifying permit language and illustrative plans while staff was simplifying the permit for their own administration.

This agency disorganization created:

- + the opportunity for multiple interpretations of permit requirements, and
- + opportunity for multiple allegations of violations of the permit.

I believe that after several attempts to reconcile permit requirements during several years of a BCDC enforcement holiday and after requests to BCDC by the permittee for proper administrative oversight of BCDC staff errant efforts, BCDC enforcement staff was unable to acknowledge errors or amend the permit to remove errors and did not remedy failures in administrative processes. Instead, BCDC staff worked on creating a list of allegations and fines for the permittee to bear the high cost of the improper permit administration by BCDC staff. Some of the above information is presented on this webpage more fully as well: <https://windwardho.com/westpoint-harbor-marina-bcdc-violations-background/>

How did I get to the above thoughts/conclusions? 1. I looked at the evidence at the harbor and in the paperwork, 2. In late December, I worked with my husband and another concerned boater to go through the allegations to try and present the facts we were seeing in an organized way. We used a Google Sheet and I documented what we saw here. <https://windwardho.com/westpoint-harbor-bcdc-allegations/> You can go take a look, the Google Sheet is linked to from that page. The information below and a heatmap from the Google Sheet are attached to this email as pdf. Just in case BCDC is unable or unwilling to include pdf documents submitted via email to the public comment record, I repeat some of the .pdf information, below:

Seven issues were identified by reviewing the allegations and responses. These are all issues within BCDC Enforcement and Permitting that provided the opportunity for the allegations to take place. Yes, these are issues within BCDC, not the permittee.

1. Poor process and follow through -- this was actually a roundup of several problems with BCDC that all relate to "process":

- * Changing decision (approved vs not),
- * Changing or ignoring the paperwork trail (e.g. altering plan drawings w/o WPH knowledge, losing permit-related correspondence & ignoring WPH copies),

- * Not following internal administrative processes (e.g. no plan review w/in 45 days but then, years later, choosing to not abide by the BCDC policy that the plan was automatically approved at 45 days if no feedback provided to permit holders like WPH),
- * Reinterpreting the permit at any time (self-explanatory and yes, BCDC is doing this).

2. Factual inaccuracies

- * The WPH responses to the allegations refer to these as "faulty facts"

3. Lack of understanding or mistakes

- * Technical competency or lack of understanding -- where property lines exist or matters of navigation are examples.

4. "Latches" & timeliness

- * Allegations of events older than 3 years from the date WPH was notified of the allegation are not timely so not legally supported.

5. Exaggerating or overreaching

- * Self-explanatory

6. Conflict w/ jurisdictions or normal practices

- * BCDC demands are in direct conflict with other Federal, State, or local laws, codes, requirements, or industry standards.

7. Making matters worse, not better if BCDC demands are complied with by WPH -- this was a roundup of two problems

- * Demands by BCDC create security-, safety-, or environmental- risks or harm,
- * Demands by BCDC actually reduce public access.

+++

Concluding this lengthy email, I remain deeply concerned that BCDC Enforcement Committee has not been able to give a full and thoughtful review of the materials provided to BCDC by the WPH responses and by their legal team. I also remain deeply concerned that BCDC enforcement endeavors are not focused upon activities that achieve compliance with the permits but instead upon an alternative, and unstated, agenda. I request that the BCDC Enforcement Committee and the full BCDC Commission take my comments seriously and fully investigate all the activities of BCDC enforcement staff to better understand how this unfortunate list of unfounded allegations came into being.

A review of the new CDO 2018.01 shows me that BCDC still does not understand that the permittee IS protecting the environment, providing habitat, providing public access all within the requirements of the original permit AND that BCDC is seeking to re-write the permit with new and/or more onerous requirements as part of the CDO.

Thank you for your time. If there is anything that I can do to help you better understand these comments or anything related to them, please send me an email or call.

Brenda Hattery
SV Mahdee
(202) 726-1994 mobile

411 Walnut St #3533
Green Cove Springs, FL 32043

----- Original Message -----

Subject: Westpoint Harbor Proposed Order No. CDO 2017.04

Date: 2017-11-15 14:47

From: Brenda Hattery <brenda.hattery.wg00@wharton.upenn.edu>

To: marc.zeppetello@bcdca.gov, info@bcdca.gov

Cc: Mark Sanders

<mark@westpointharbor.com>, harbormaster@westpointharbor.com, doug@westpointharbor.com

See attached pdf

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November 15, 2017

BCDC Enforcement Committee
55 Golden Gate Avenue
Milton Mark Conference Center
Monterey Room, Basement Level
San Francisco, CA 94102

RE: Westpoint Harbor Proposed Order No. CDO 2017.04

Dear BCDC Enforcement Committee and BCDC:

I am familiar with Westpoint Harbor (WPH) marina and its owner Mark Sanders. My own boat has berthed there during 2016 and 2017. My observation is that the marina's owners and employees have consistently taken actions to protect and improve the Bay environment, foster and encourage Bay access by pedestrians and boaters alike, protect the personal and boating safety of boaters in the harbor, and encourage safe boating in the San Francisco Bay. As such, the BCDC enforcement actions are of great concern to me.

The information in the hearing documents presents as a series of arbitrary and capricious actions on the part of the BCDC that simultaneously harm public access to the Bay while purposefully seeking to undermine the success of a privately owned but public access marina. It presents as government at its worst and I don't like seeing that. The WPH and others in public comment letters for tomorrow's November 16, 2017 meeting have already addressed many of the allegations and I will not do a point-by-point statement here repeating the same things that have been said by others. I am hopeful that BCDC will drop the fines and move on to better things the agency could be doing to protect the Bay environment and assure public access to the Bay. Those things include working together with WPH to quickly achieve the future phases of development to the benefit of the public at this site.

In the matter of the WPH permit, I believe specific BCDC staff involved in decision making and enforcement actions have demonstrated a lack of consideration and

understanding of marinas, boating, navigation, and other matters necessary to perform high quality public administration as it relates to the permitting and enforcement activities at WPH marina.

The BCDC also appears to have acted inconsistently, without objectivity, and with bias in matters related to the WPH over a period of several years. I believe this is material to the assessment of fines against WPH and should be heavily considered as BCDC decides what to do on November 16th, 2017 regarding fining WPH at all for past activities.

The BCDC is a small agency and heavily dependent upon a few employees and thus BCDC work products including permit administration and enforcement are especially vulnerable to the strengths, weakness, and objectivity of individual staff.

I request, on behalf of myself and other members of the public impacted by BCDC's actions, that the BCDC remove, from the permit and enforcement process as it relates to WPH, the influence of employees who have in the past taken positional stances without regard to the facts or who have acted with personal bias and/or abuse of position including in the matter of the WPH permit. I also request that BCDC set aside and remove from BCDC consideration all input of BCDC staff that disregard the fundamentals of navigation, engineering practice, marina and boat facilities construction standards, public safety and security, and especially those input which disregard the authority and jurisdiction of other state agencies and the Federal government.

Many other understaffed enforcement agencies set aside aggressively fining and pursuing of enforcement actions because such pursuit can be very costly to the agency and not as effective in meeting public policy goals as other methods to assure compliance with an agency's objectives. If BCDC, as I suspect, is understaffed or inadequately funded to perform the proper, fair, and impartial administration of the WPH permit, I request that the BCDC reach out for assistance to appropriate state and federal agencies as well as professional associations or groups qualified to provide assistance so that the past matters related to the WPH permit may be quickly and competently concluded and the marina owner can move forward expediently with future phases of the development to the benefit of the environment and the public.

The BCDC administration of the WPH permit over time has become a contentious issue for some BCDC personnel and even in the best of circumstances it might be difficult for those staff to set aside their prior "investment" in the process of blocking WPH development so they may work together with WPH to achieve an excellent outcome for the environment and the public at the marina.

We can see that the proposed fines and the personal consequences of the BCDC's decisions are very high for WPH and Mr. Sanders. These are serious matters of significant consequence. So if BCDC is going to continue to try and assess fines, I believe

it is appropriate to request that non-objective or potentially biased personnel are removed from the process entirely and the previous findings of such biased persons be reviewed carefully by impartial parties inside and outside of BCDC to determine the veracity and reasonableness of the findings. Very specifically, I think that BCDC employee Adrienne Klein's objectivity regarding the WPH permit has been compromised by competing BCDC priorities imposed upon her administration and enforcement role as it pertains to the WPH. I believe it is difficult if not impossible for Ms. Klein to objectively and competently participate in matters relating to WPH and its owner Mark Sanders. It is unfair to Ms. Klein, to the WPH, and to the public for Ms. Klein to remain involved in the administration and enforcement of the WPH permit. It is wasteful of public and private resources as well.

The BCDC enforcement efforts to protect the Bay and public access to the Bay have appeared to be, in the case of WPH, aggressively misdirected and wasteful of public resources with intent of blocking the WPH project entirely. Overtures of sycophancy and BCDC sensitivity to anything related to the hundreds of acres of active salt ponds nearby WPH seem to impede the agency's ability to act rationally in matters pertaining to this small marina development activity. The 26 acres of Westpoint Harbor should not become a contested Mount Moriah of the South Bay.

I have little doubt that the positioning and animosity of BCDC staff towards the WPH project has created a situation in which the people involved are unable to conclude the requisite permitting in a way that is reasonable, fair to the WPH, and representative of good public administration.

So I implore the BCDC to drop this aggressive and wasteful persecution of the WPH project and instead to begin to act in the best interests of the Bay environment and the people of California. The hours of effort put into this enforcement action are a "sunk cost" for all but it is never too late to begin on a path of good administration of the WPH permit. I express immense respect for the BCDC Enforcement Committee if the Committee will do the right thing and stop wasting public resources on this matter.

Again, it is my observation that the WPH and Mark Sanders own stance and actions on the environment, sensitive habitat for shore birds, and adjacent lands has been above reproach. The WPH stewardship of the land and serious attention to boater safety in navigation is commendable as well. The marina staff are welcoming to the general public and boaters alike.

Even with past fines put aside as I suggest, public access will remain an issue for BCDC and WPH until its extent is resolved. BCDC should have a sensible requirement for public access but it seems that in the case of WPH to date, the requirement to provide full pedestrian public access was used more of a tool to hinder the safe operations of WPH or provide an opportunity for fines than a method to meet desired levels of public access to the Bay itself and Bayfront. I request that BCDC review its own position on the

permit requirement for public access 24/7 and modify it to something more normal for a marina. BCDC must consider what is being required and what is realistic.

At the WPH, it has been my own personal observation that the general public has had unfettered access to docks, paths, parking, lots, bathrooms, and facilities during business hours at the WPH and during non-business hours as well. The docks are not locked, the parking is ample and widely available to all. Frequently, random people without boats or business with the harbor walk, bike, run, and drive through the WPH as they wish. Boaters, kayakers, canoers, SUP boarders, and others all use the public launch ramp and the marina docks without significant interference from the marina staff. The launch ramp includes adjacent parking and trailer parking more than ample for the people who choose to use the WPH for the launch of their boats.

We are lucky nothing untoward has happened at the harbor due to vagrants or other undesirable elements. Sadly, in most public dock situations, for every thoughtful kayaker enjoying the quiet marina fairway, there are vagrants eyeballing the dingy engines on davits and planning their moonlit return for treasure. Even if it's not opportunists looking for their next take, it's kids making toys of other people's belongings or risking injury on the docks. Please use common sense when addressing public access at WPH.

In conclusion, I greatly appreciate the BCDC's role in protecting the environment and assuring public access to the San Francisco Bay. I also respectfully request that the BCDC swiftly act to dismiss these allegations against WPH and begin the process of working with the marina owner to continue forward with the remaining phases of development at the Westpoint Harbor marina.

Most respectfully yours,

[original signed]

Brenda Kay Hattery

HEATMAP: Categories of BCDC Behaviors Underlying the Allegations

We discovered there are several ways the BCDC found to put together the many unfounded allegations. Several patterns emerged and we began to group or characterize the allegations based upon the BCDC behavior underlying the allegations. The spreadsheet rows contain the 22 violation allegations that were sent to WPH before the November hearing and one additional allegation that popped up in the draft Cease and Desist Order (#23). Categorizing how the BCDC found a way to make an allegation fell into these areas:

1. **Poor process and follow through -- this was actually a roundup of several problems with BCDC that all relate to "process":**
 - * Changing decision (approved vs not),
 - * Changing or ignoring the paperwork trail (e.g. altering plan drawings w/o WPH knowledge, losing permit-related correspondence & ignoring WPH copies),
 - * Not following internal administrative processes (e.g. no plan review w/in 45 days but then, years later, choosing to not abide by the BCDC policy that the plan was automatically approved at 45 days if no feedback provided to permit holders like WPH),
 - * Reinterpreting the permit at any time (self-explanatory and yes, BCDC is doing this).
2. **Factual inaccuracies**
 - * The WPH responses to the allegations refer to these as "faulty facts"
3. **Lack of understanding or mistakes**
 - * Technical competency or lack of understanding -- where property lines exist or matters of navigation are examples.
4. **"Latches" & timeliness**
 - * Allegations of events older than 3 years from the date WPH was notified of the allegation are not timely so not legally supported.
5. **Exaggerating or overreaching**
 - * Self-explanatory
6. **Conflict w/ jurisdictions or normal practices**
 - * BCDC demands are in direct conflict with other Federal, State, or local laws, codes, requirements, or industry standards.
7. **Making matters worse, not better if BCDC demands are complied with by WPH -- this was a roundup of two problems**
 - * Demands by BCDC create security-, safety-, or environmental- risks or harm,
 - * Demands by BCDC actually reduce public access.

More detailed information available:

<https://windwardho.com/westpoint-harbor-bcdc-allegations/>

Background overview available:

<https://windwardho.com/westpoint-harbor-marina-bcdc-violations-background/>

Westpoint Violation Categories

Number	Violation Category	Poor process and follow through issues	Factual inaccuracies	Lack of understanding or mistakes	"Latches" & timeliness	Exaggerating or over reaching	Conflict w/ jurisdictions or normal practices	Making matters worse not better	Proposed fine
1	Public access, restrooms	1.32	0.53	0.50		0.25	0.95	0.45	\$30,000
2	Landscaping	1.67	0.67	0.17	0.17	0.17	0.17		\$30,000
3	Furniture, lighting, irrigation	0.67	0.33	0.50		0.50			\$30,000
4	Public access signs	1.00	0.17	0.42		0.42			\$30,000
5	Public parking spaces	0.93		0.31			0.31	0.45	\$30,000
6	Boat launch	0.93	0.37	0.37		0.17	0.17		\$30,000
7	Buoys/signs protecting Greco Island	1.07	0.42	0.42		0.31	0.22	0.33	\$30,000
8	Visual barriers	0.50	0.17	0.17		0.17			\$30,000
9	Shorebird habitat mitigation	0.57	0.14			0.14	0.14		\$30,000
10	Non-tidal wetland mitigation	0.44	0.11	0.11	0.11	0.11	0.11		\$30,000
11	Rowers' dock/101 Sports	0.63	0.34	0.34		0.34		0.34	\$30,000
12	Storage tents on docks			0.50		0.50			\$30,000
13	Fuel dock	0.90	0.37	0.37		0.37			\$30,000
14	Fill and change in use	1.50	0.58	1.17		2.00	1.00	1.50	\$30,000
15	Contractor Certification					1.00			\$0
16	Contractor Certification					1.00			\$30,000
17	Unauthorized work				1.00				\$0
18	Unauthorized work	0.25	0.25	0.25		0.25			\$30,000
19	Liveaboard information	0.57	0.14	0.14		0.14			\$30,000
20	Berthing agreement	0.60			0.20	0.20			\$0
21	NOAA notification	0.50		0.25	0.25				\$30,000
22	Public access improvements	0.50	0.25	0.25					\$0
23	Boat launch sign/charge	0.40	0.20	0.20			0.20		\$30,000

From: Jason Fox <Jason_Fox@us.ibm.com>

Sent: Wednesday, January 17, 2018 10:14:30 PM

To: Zeppetello, Marc@BCDC

Cc: Klein, Adrienne@BCDC; chris.carr@bakerbotts.com; dsmith@sticeblock.com; kevin.sadler@bakerbotts.com; kevin.vickers@bakerbotts.com; Zeppetello, Marc@BCDC; mark@westpointharbor.com; ReceptionDesk@BCDC; receptiondesk@bcdca.gov; jzucker@ix.netcom.com; bobw2654@gmail.com; doug@westpointharbor.com; carol@westpointharbor.com; john@westpointharbor.com; deanhyatt@lucidmotors.com; katzwetsloothyatt@gmail.com

Subject: Re: Summary of BCDC Enforcement Committee Meeting on November 16, 2017

Marc, Thank you for your response back on November 22.

Due to travel and the holidays, I did not carefully read your email from 11-22-17. Given your response/statement I am now confused and even more concerned. Since the hearing is tomorrow, I want to make sure this is on the record. I am speaking from my point of view, separate from the Westpoint Harbor office. I'd like to respond to the following:

1. Locked gates -

You stated in your reply to me, that there are locked gates on the gangways to the private docks. Where are you getting your information from? I would hope if infractions were coming down on Westpoint that you or someone from your office would have done due diligence and looked into the matter(s).

Currently, there are no locked gates on any of the private docks, and that has been the case since we arrived here in November of 2014. There isn't even hardware installed to lock the gates! That was an issue we have had since we moved our boat here and became residents. As I stated in my initial letter, I will personally hold the BCDC accountable if anyone gets hurt as a result of having access to my dock or boat. I had a family step onto our boat last year taking pictures and can only imagine if the child fell off the boat and was injured, or even worse, killed. That is a responsibility we will place back on the BCDC for not allowing us to lock the gates.

We can attest that as a tenant of the marina for now over three years, the gates are not locked and have never been locked in that time. We have stayed at numerous marinas in the Bay and beyond. This is the only marina except for the commercial docks in Half Moon Bay that is completely open to the public. I can assure you that all boaters in this marina have an issue with this. Again, why would you state we have locked docks when we don't?

I am also concerned because you state BCDC is not seeking an action to remove the gates or they be kept unlocked, even for limited periods. What does that mean when fines being imposed state the following?

Here is language in the Violation Complaint: ***"Locked gates have been installed without authorization at the gangways leading to the boat docks, including to the guest docks that are part of the dedicated public access area, and each gate was posted with an unauthorized sign stating Members and Guests Only"***.

Not to beat a dead horse, but there haven't been locked gates in the three years we have been residents. This statement is a lie. "I would like to use the legal term of deception/distortion/misrepresentation/libel" but cannot go there because it is a complete lie from BCDC on this statement.

How can something like this be voted on tomorrow, January 18, 2018, when The Cease and Desist Order to be voted tomorrow describes ***"Unauthorized gates that Sanders' installed at each of the gangways leading to the private docks"***?

It's a complete lie and inaccurate. And to add, your infractions and requests to rectify, have EVERYTHING to do with the "operation of the marina" (your words verbatim).

2. Public access hours

No government building or park, no city park, no playgrounds, no state park (I think you get the idea) allows anyone to be on the grounds from sunset to sunrise. Other than someone pulling their boat in or out of the water, would the public need to be here at night. It can be dangerous to be walking on the pathways, gangways, shores, etc if you aren't familiar with the area and waterways. This is ludicrous! This is common sense! This isn't us trying to keep people away, this is us trying to keep them safe. Isn't that part of your mission and the BCDC's?

Thank you for your time and bringing my concerns forward.

Jason Fox

Jason Fox

Program Director
B2B Cloud Services
Watson Supply Chain
IBM Watson Customer Engagement
Phone: +1-720-396-9286
E-mail: jason_fox@us.ibm.com



— Original message —

From: "Zeppetello, Marc@BCDC" <marc.zeppetello@bcdca.gov>
To: Jason Fox <Jason_Fox@us.ibm.com>, "Klein, Adrienne@BCDC" <adrienne.klein@bcdca.gov>, "ReceptionDesk@BCDC" <reception@bcdca.gov>, "receptiondesk@bcdca.gov" <receptiondesk@bcdca.gov>
Cc: "chris.carr@bakerbotts.com" <chris.carr@bakerbotts.com>, "kevin.vickers@bakerbotts.com" <kevin.vickers@bakerbotts.com>, "kevin.sadler@bakerbotts.com" <kevin.sadler@bakerbotts.com>, David Smith <dsmith@sticeblock.com>, "Mark L. Sanders - (mark@westpointharbor.com)" <mark@westpointharbor.com>, "Zeppetello, Marc@BCDC" <marc.zeppetello@bcdca.gov>
Subject: Re: Summary of BCDC Enforcement Committee Meeting on November 16, 2017
Date: Wed, Nov 22, 2017 1:57 PM

Mr. Fox:

Thank you for your comments. We received a large number of comment letters, expressing a range of perspectives and raising numerous issues, on this enforcement action involving

Westpoint Harbor. All comment letters were provided to the members of the Enforcement Committee and made a part of the record. We generally do not respond to comment letters submitted on matters before the Enforcement Committee or Commission, but will briefly address certain questions you have raised.

In your email yesterday, and your earlier email on November 14th, you raised safety concerns about public access to the private boat docks. You appear to be misinformed on this issue. BCDC's understanding is that there are locked gates on the gangways to all of the private docks. BCDC is not seeking in this enforcement action the removal of those gates or that they be kept unlocked, even for limited periods, to allow public access to the private docks.

You repeatedly claim that BCDC is disconnected from the boating community. BCDC staff generally works cooperatively with marina owners and operators throughout the Bay Area, and both the Commission and the policies of the San Francisco Bay Plan are supportive of recreational boating. In any event, this enforcement action has very little to do with operation of the marina. As you know, Westpoint Harbor is more than a marina; it is a mixed-use project with substantial land-side development, including required public access areas around the marina basin and certain public access improvements.

BCDC has brought this enforcement action to require compliance with a number of permit conditions, including those for public access and public access improvements. What this will likely mean for marina tenants, including live-aboards, is increased public use and activity over time on the paths around the marina basin and in the parking lot. While the marina itself may be a members and guests only facility, the larger project area is not. As you may know, shoreline public access exists at nearly every marina in San Francisco Bay.

We acknowledge that there may be legitimate safety concerns associated with public access, but as noted in your November 14th email, means to address those concerns may include hiring security and installing more security cameras. In addition, the permit authorizes the permittee to request approval to impose reasonable rules and restrictions for the use of public access areas to correct particular problems that may arise. However, generalized safety concerns do not warrant, for example, completely prohibiting public access from sunset to sunrise, as suggested in your November 14th email, which would thereby limit enjoyment of the public access areas and improvements during those times to marina tenants only. Restrictions on public access to required public access areas and improvements would need to be both reasonable and justified.

Once again, thank you for your comments.

Marc A. Zeppetello
Chief Counsel
San Francisco Bay Conservation
and Development Commission
455 Golden Gate Avenue, Suite 10600
San Francisco, CA 94102

Telephone: (415) 352-3655
marc.zeppetello@bcdcc.ca.gov

January 3, 2018

Mr. R. Zackary Wasserman, Chair
Bay Conservation and Development Commission
Wendel Rosen Black & Dean, LLP
1111 Broadway, 24th Floor
Oakland, CA 94607

Dear Chair Wasserman:

On November 16, 2017 a three-hour hearing was held by the BCDC Enforcement Committee. The hearing included a thirty-minute presentation by BCDC and a thirty-minute presentation by an attorney representing Westpoint Harbor LLC. Public input was limited to 90 seconds per citizen. The Enforcement Committee failed to respond to any of the points raised by the public speakers or the over 100 letters that were submitted to the Committee. After the hearing, the Enforcement Committee "rubber-stamped" the staff recommendation.

I'm hoping you, as an attorney appointed by the Governor, will look into the processes and issues surrounding Westpoint Harbor. I'm sure you will see the flaws in the Enforcement system developed by BCDC staff. The Enforcement Committee hearing was a sad façade. They did not rule on any individual allegation of the thirty-five claims presented by staff, but passed everything in its original form to the entire Commission. Clearly, there was insufficient time to explain the allegation(s) or present a defense. I worked in Human Resources for twenty years in the public sector and spent more time in front of a Civil Service Commission over a one-day suspension of an employee than the Enforcement Committee spent reviewing thirty-five allegation(s) and a fine of \$530,000.

I hope you are as concerned as I am that BCDC staff denied Westpoint Harbor LLC the ability to appeal the allegations to the Enforcement Committee. Mark Sanders first requested his right to a hearing, per the written policies and procedures of the agency as presented in the BCDC Bill of Rights, in 2012. Interesting, and probably illegal, BCDC staff four times denied his right to appeal and then, seven years later, allow an appeal. The proposed fine includes the entire time period that staff denied Westpoint Harbor an opportunity to be heard. Again, I would think you would be concerned as an attorney about due process and denial of the right to appeal as provided by BCDC rules.

If you suspect I'm exaggerating the facts regarding the refusal to allow an appeal, review the Minutes of the Enforcement Committee Workshop dated October 2016 and March 2017. You will find a statement by the Executive Director confirming that the Enforcement Committee hasn't met in seven (7) years and that staff is doing things by the "seat of their pants". This is not the kind of thing you would want to have in the public record when imposing a huge fine and trying to drive a single business owner into bankruptcy.

This case is about power. Even though the BCDC Commission unanimously approved the Westpoint Harbor project, staff has worked tirelessly to delay and stop the project. Adrienne Klein, Chief Enforcement Officer, identified the project as a top priority for her enforcement staff a year before the initial letter containing allegations of wrongdoing (see attached email).

BCDC staff knows twenty-seven Commission members will not take the time to read the convoluted reports and will instead take the easy way out and just confirm the staff report. BCDC staff brags the Commission will do what we tell them to do. I hope you prove them wrong.

If you want to test the validity of the case against Westpoint Harbor, ask a few questions:

1. Why is BCDC requiring public parking signs on posts when they haven't required it next door at the Pacific Shores center where it is painted on the asphalt same as at Westpoint Harbor? Both permits have identical requirements. Staff wants public parking signs on posts even though the Environmental Impact Report and Department of Fish and Game ruled against it because they provide roosts for raptors. Do you think this is about public parking or BCDC staff? Is this egregious violation worth \$30,000?
2. BCDC cites Westpoint Harbor for having the City of Redwood City Police and Fire boats in the marina. There is even an issue with a Fire truck parked in the marina parking lot. Why does BCDC disapprove of municipal Police & Fire vehicles?
3. All around the bay, in over 55 marinas there are locked gates and restrooms. All around the bay there are BCDC signs that say that public access is dawn till dusk. BCDC approved the exact same requirement for Westpoint Harbor, even providing the signage design and locations. They changed their mind when the official enforcement action started. Why is BCDC saying that Westpoint Harbor has to have restrooms and gates open 24 hours a day, seven days a week? This is about BCDC targeting Westpoint Harbor, something that could be called vindictive prosecution.
4. With no expertise on staff regarding navigable waterways (which are the jurisdiction of the US Coast Guard) why are staff proposing a \$30,000 fine over something the Coast Guard says would be stupid and illegal?
5. Ask questions about the NOAA allegation. First, BCDC alleged that Mark Sanders failed to work with NOAA as required under the permit. When Mark Sanders provided copies of documents proving he had worked closely with NOAA as required by the permit, staff modified the allegation to say that he failed to notify BCDC that he had worked with NOAA. The proof offered in this allegation is that BCDC staff had no records that they had been notified until 2011, hence another \$30,000 fine. There is documentation that BCDC was notified in 2009 but staff still believes a \$30,000 fine should be imposed because they don't keep records. This is the subject of a separate lawsuit for violation of the Public Records Act.
6. Lastly, here is another example of the staff work. One allegation of wrong-doing requires Westpoint Harbor to take out fuel storage tanks. Point of information, there are no fuel storage tanks at Westpoint Harbor. Staff wrote the allegation in their action, the Executive Director confirmed the allegation in his "independent review" and the Enforcement Committee confirmed the allegation in their review. Mr. Zeppetello finally removed the allegation in the last week or so. If this allegation is false and it was and is, you may wish to ask how many others are also false.

The list goes on and on. I'm somewhat surprised that the Executive Director, Mr. Goldzband would put his job in jeopardy by simply forwarding his staffs' work. He even added in an additional charge that had to be withdrawn because he failed to follow the BCDC procedures for notification of an allegation of wrongdoing. As someone who worked in the public sector for over twenty years, I'm embarrassed and ashamed to see an organization operate without any apparent accountability for violating their own rules, California Administrative Law, the Public Records Act and with a free license to target citizens for a permit that was poorly written by BCDC staff in the first place.

Respectfully,

**Douglas Furman
8 Admiralty Place
Redwood City, CA 94065
defurman@comcast.net**

From: Jason Fox <Jason_Fox@us.ibm.com> **Date:** Tuesday, November 21, 2017 at 12:57 PM
To: Marc Zeppetello <marc.zeppetello@bcdc.ca.gov>, "Klein, Adrienne@BCDC" <adrienne.klein@bcdc.ca.gov>, "ReceptionDesk@BCDC" <reception@bcdc.ca.gov>, "receptiondesk@bcdc.ca.gov" <receptiondesk@bcdc.ca.gov> **Subject:** Re: Summary of BCDC Enforcement Committee Meeting on November 16, 2017

Please advise where in what was sent below there are fixes to address safety concerns from those living aboard to restrict public access to the docks. Reading the full filing and history of what it took to get where we are it is very clear BCDC is disconnected from the boating community. Is the BCDC involved in communication, advocacy, etc to local yacht clubs, USCGAUX, general activities around boating? Apparently not.

We are live aboard boat owners and will hold BCDC responsible if anything happens that causes us or our boat any damage or harm due to restrictions on securing the docks. Also what does cease and desist actually mean to us where this is our primary residence? This is our home and we take pride in helping build the best in class marina in the SF Bay Area.

I have been a member of the boating community for almost 20 years in the Bay Area on the Board of Directors for Sierra Point Yacht Club in Brisbane, past Commodore of SPYC, member of USCG auxiliary and a true advocate for the ocean environment and improvement to address real issues.

My wife and I assist in marine mammal conservation, farallon island watch volunteers and my wife is a certified vet technician, small animals and large animal anesthesia nurse. We are marine, animal and nature lovers.

We have been to most marinas in the Bay Area, had one of our two boats at Port of RWC, Coyote Point, Brisbane Marina, Pillar Point, Pier 39 and South Beach for extended time (greater than one year in each place). To even compare what they have versus what West Point is trying to do for the community and environment makes me realize BCDC is really disconnected from the boating community. BCDC has a reputation from past and current harbor masters in marinas outside of Westpoint harbor to be a Bureaucracy and the filing and this communication makes it even more apparent of the disconnect this organization has with boating and real wildlife community. It is obvious BCDC doesn't know what is really going on around them in the Bay Area.

Failure to respond to this email is further confirmation how BCDC is disconnected from the boating environment, community and what really happens on the Bay.

Jason Fox
Program Director, B2B Cloud Services
IBM Watson Customer Engagement
Phone: +1-720-396-9286
E-mail: jason_fox@us.ibm.com

On Nov 21, 2017, at 8:49 PM, ReceptionDesk@BCDC <reception@bcdc.ca.gov> wrote:

Enforcement Committee Members, Interested Parties, and Staff:

Five members of the Enforcement Committee attended the November 16, 2017, BCDC Enforcement Committee meeting, which was held at 455 Golden Gate Avenue in San Francisco.

Following a public hearing, the Committee adopted, with modifications, by a vote of 5-0, the Executive Director's Recommended Enforcement Decision, including proposed Cease and Desist and Civil Penalty Order No. CDO 2017.04, that would be issued by the Commission for alleged violations of BCDC Permit No. 2002.002.09 and the McAteer-Petris Act at Westpoint Harbor, located at the end of Seaport Boulevard in Redwood City, San Mateo County.

The alleged violations include but are not limited to: (1) failure to provide required public access and public access improvements; (2) failure to comply with plan review requirements; (3) failure to maintain public access improvements; (4) failure to install required signs and buoys to protect listed species and sensitive habitat; (5) failure to provide required visual barrier to an adjacent salt pond; (6) failure to provide required mitigation; (7) failure to provide required certification of contractor review; (8) failure to secure a time extension to complete construction; (9) failure to provide required information regarding live-aboard boats; and (10) failure to provide required notification to NOAA regarding updated nautical charts.

The Executive Director's Recommended Enforcement Decision and proposed order would require Mr. Sanders and Westpoint Harbor LLC by specified dates to: (1) cease and desist from violating BCDC Permit No. 2002.002.09; (2) make public access available; (3) submit a signage plan for review and approval, and install the approved signs; (4) submit plans for public access improvements for review and approval, and complete installation of approved improvements; (5) maintain public access areas and related improvements; (6) remove unauthorized improvements; (7) submit a complete application to amend the BCDC permit to request after-the-fact authorization for certain improvements or modifications; (8) install buoys and signs in Westpoint Slough; (9) submit a plan to provide visual barriers to the adjacent salt pond for BCDC review and approval, and complete installation of visual barriers; (10) provide shorebird roost habitat mitigation; (11) provide non-tidal wetland mitigation; (12) provide annual reports on live-aboard boats; (13) provide certification of contractor approval; (14) submit monthly status reports; and (15) pay an administrative civil penalty of \$513,000.

The Enforcement Committee adopted the Executive Director's Recommended Enforcement Decision with the following modifications: (1) the Enforcement Committee allowed the parties to attempt to negotiate mutually agreed-upon revisions to the cease and desist provisions of the proposed order to be presented to the Commission for its consideration; and (2) if the parties are able to mutually agree on proposed revisions to the cease and desist provisions of the proposed order, the Respondents would be entitled to a waiver of 50% of the proposed penalty (*i.e.*, the penalty would be reduced from \$513,000 to \$256,500), provided that the Respondents comply fully with the order, as determined by the Executive Director. The Respondents would be required to pay the reduced penalty of \$256,500 within 30 days of issuance of the order by the Commission.

The Enforcement Committee's Recommended Enforcement Decision will be considered by the Commission on **January 18, 2018**. For details contact Marc Zeppetello (415/352-3655 marc.zeppetello@bcdca.gov).

On **January 18, 2018**, the Enforcement Committee may hold a public hearing and vote on: (1) a recommended enforcement decision including adoption of proposed Cease and Desist and Civil Penalty Order No. CDO 2018.01 for alleged violations of the McAteer-Petris Act by the North Coast Rail Authority in a tidal slough on the west shore of the Petaluma River adjacent to the Lombard Segment of the Northwestern Pacific Railroad, Marin County. For details contact Matthew Trujillo (415-352-3633 matthew.trujillo@bcdc.ca.gov); and (2) an appeal of the Executive Director's determination that Scott's Seafood, Inc. did not fully comply and in a timely manner with certain requirements of Cease and Desist and Civil Penalty Order No. CDO 2017.01, issued on April 7, 2017, and, therefore, is not entitled to a waiver of 15% (\$59,304) of the total penalty of \$395,360 under the Order. For details contact Marc Zeppetello (415/352-3655 marc.zeppetello@bcdc.ca.gov).

San Francisco Bay Conservation
and Development Commission
415-352-3600
reception@bcdc.ca.gov

Subject: PICYA Letter to Member Clubs - Fwd: San Francisco Bay Conservation and Development Commission (BCDC) action regarding Westpoint Harbor

Date: Wednesday, January 17, 2018 at 1:28:00 PM Pacific Standard Time

From: Winston Bumpus

To: Zeppetello, Marc@BCDC, ReceptionDesk@BCDC

Dear Enforcement Committee Members and BCDC Commissioners,

Please see below a copy of a letter sent to the 100+ yacht clubs of Northern California who are members of the Pacific Inter-Club Yacht Association (PICYA) and who are also members of the public that enjoy access to our Bay. Please add it to the public record.

Winston Bumpus
Commodore
PICYA

----- Forwarded message -----

From: "PICYA" <info@picya.org>

Date: Jan 16, 2018 6:10 PM

Subject: San Francisco Bay Conservation and Development Commission (BCDC) action regarding Westpoint Harbor

To: <sycwin@gmail.com>

Cc:

[View e-mail in browser](#)

San Francisco Bay Conservation and Development Commission (BCDC) action regarding Westpoint Harbor

You may have already heard about the San Francisco Bay Conservation and Development Commission (BCDC) action regarding Westpoint Harbor, and owner-operator Mark Sanders, being assessed over \$500,000 in fines and penalties. I am surprised and shocked by this action. I understand and appreciate BCDC's goals and objectives which are to be commended, but this action seems heavy handed, unnecessary and way out of line.

I have known Mark Sanders for a long time. I know that he has personally worked night and day for the last nearly 30 years to fulfill this dream. I also had my boat (a 38 foot sailboat) at the Westpoint Marina for about a year. I have also kayaked there using the new kayak dock and find that it is a great addition to the harbor and an environmentally friendly way to observe the beautiful area.

I have had my vessel in many marinas and as part of my official duties I have visited many marinas by land and sea. In my opinion what Mark Sanders has accomplished should be rewarded, not punished. He has one of the

most state-of-the-art and environmentally clean marina that I have ever seen. This is accomplished by three very important things I believe he does.

1) His revolutionary pump-out access at each slip is something I have never seen before or since in all of my travels. It provides easy pump-out access and reduces the chance of holding tank overflows.

2) His high standards for boats admitted to the marina. Many marina have low standards as to what can come into the marina. I have seen old, derelict and leaky boats in most marinas. That is not happening at WPH. They are inspected and must be in top working condition.

3) He is a huge advocate for clean boating and supported boater clean education at his marina on several occasions. He also provides all of the other required environmental receptacles and signage.

The San Francisco Bay is known for its world class boating and sailing environment but, it is facing large issues. Many marinas are silting in and our closing or have closed. We have lost everything south of the Dumbarton Bridge in the past; Palo Alto is closed and South Bay marina (Alviso) is pretty much just for small boats. There are pictures that hang on the wall at South Bay Yacht Club when large sail boats could actually sail to Alviso but, those days are gone.

In the last 10 years, 3 additional marinas have gone. Pete's Harbor – The Peninsula Marina and soon Docktown. If you go a little further north, San Leandro marina is in jeopardy.

Westpoint Marina is the hope of the future for recreational boating in the South San Francisco Bay. Mark and his work at Westpoint Harbor is providing access to the thousands of people in the South Bay who enjoy our waters. If this is how someone is treated after 30 years of blood sweat and tears, then who would ever want to take on a project like this.

It appears from reading Mark's response that much of this is due to change of personnel at BCDC and a lack of communication and penalties that don't make sense, including a \$30,000 fine because the Redwood City fireboat and police boats are in his marina.

RBOC has met and sent a letter in support of Westpoint Harbor and in opposition of this action to BCDC. The PICYA Board has just met and supports me sending this letter to you.

A second meeting of the BCDC enforcement committee is scheduled for this Thursday, January 18th, and you can help. An online petition has been created and since Saturday morning over 2300 people have signed the petition to stop this needless action by BCDC. This morning another great editorial has been posted by Latitude 38 in support of Westpoint Harbor and marinas around the bay.

I am asking for your help to sign the petition today. For a short video on Westpoint Harbor and links to all of the information including the petition, please go to www.friendsofwestpointharbor.org

Sincerely,

Winston Bumpus

Commodore

PICYA

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Not interested anymore? [Unsubscribe Instantly](#)

From: Bob Wilson <bobw2654@gmail.com>

Date: Friday, January 12, 2018 at 4:59 PM

To: Marc Zeppetello <marc.zeppetello@bcdcc.ca.gov>

Cc: "ReceptionDesk@BCDC" <reception@bcdcc.ca.gov>, Mark Sanders <mark@westpointharbor.com>, Doug Furman <doug@westpointharbor.com>, Paulien Ruijsenaars <paulien@ruijsenaars.com>, "Gordon R. Mowat" <gmowat@earthlink.net>, Asma Stewart <asma@sailoutbound.com>, Nick Vicars-Harris <nickvh@msn.com>, "Rendon, Mario" <Mario.Rendon@asm.ca.gov>, Ian Bain <ibain@redwoodcity.org>

Subject: Re: Comments Regarding Westpoint Harbor Proposed Order No. CDO 2017.04

Mr Zeppetello I look forward to addressing the enforcement meeting "redo" on Westpoint Harbor next week January 18, 2018.

I was just reviewing the BCDC website. The letter below was sent in November 11, 2016. However, I cannot find it on the BCDC site. Why is that? Were all emails on the subject somehow lost? Please explain.

Meanwhile, please post this one to be sure BCDC commissioners have the full story. I will be writing again.

The credibility of the BCDC Staff is in question particularly after the Sweeney decision so I know your prompt attention to this matter will be appreciated by all involved!

Bob Wilson

Cinova

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On Sun, Nov 12, 2017 at 11:44 PM, Bob Wilson <bobw2654@gmail.com> wrote:

November 11, 2017

Re: Westpoint Harbor Proposed Order No. CDO 2017.04

Attn: Enforcement Committee Members and BCDC Commissioners

c/o Mr, Marc Zeppetello

marc.zeppetello@bcdcc.ca.gov

CC: info@bcdcc.ca.gov, Mark Sanders, Westpoint Harbor, Congresswomen Jackie Speier, Senator Diane Feinstein, Governor Jerry Brown

Thank you for the opportunity to address my concerns regarding the Proposed Cease and Desist and Civil Penalty Order No. CDO 2017.04 related to Mark Sanders and Westpoint Harbor, LLC. I plan to attend the hearing this Thursday morning in San Francisco and am anxious to testify on the record at that time.

Summary

I am very familiar with Westpoint Harbor, the San Francisco Estuary and Mark Sanders. I am committed to our environment and appreciate the need for institutions to help us protect, and responsibly co-exist with precious resources like our estuaries, bays and oceans. I have read the BCDC Strategic Plan updated in June 2017 and avidly support its stated mission. However, this enforcement activity by the BCDC Staff (Staff) is a detriment to that mission. Staff is diverting resources away from enhancing our environment and from the people it is meant to serve. Massive and precious resources are being wasted on minor disagreements which could be resolved amicably. Those wasted resources ought to be put to much better use supporting BCDC's mission.

To remind us all of the BCDC mission it is as follows:

The San Francisco Bay Conservation and Development Commission (BCDC) protects and enhances San Francisco Bay and encourages the Bay's responsible and productive use for this and future generations.

The creation and operation of Westpoint Harbor is completely in sync with the stated mission of the BCDC. The activity of the Staff is in my view misguided and wrong. Reasonable people will have disagreements, but Staff efforts have escalated to levels not commensurate with the issues they raise. Millions of dollars and thousands of hours are being wasted. I call on the BCDC Commissioners to get the Staff and these discussions back on a more positive track. I am hopeful this will happen quickly and will do all I can to help.

Reluctantly, I am calling on other elected representatives and the media to intervene to take a fresh look at this injustice. Once a spotlight is put on this situation by independent parties, I believe a sensible resolution will result, and resources on both sides will get back to working cooperatively on the mission so clearly stated above.

Background

I have read the Violation Report/Complaint Number: ER2010.013 and the Respondent's Statement of Defense. I have also reviewed the June 2017 Strategic Plan for the Bay Conservation and Development Commission.

I am a long-term resident of Redwood City. I have sailed and cruised extensively in San Francisco Bay and the Delta for over 30 years. I maintain both a classic sailboat in Sausalito and a vintage Grand Banks berthed at Westpoint Marina. I am a former vice commodore of the Sausalito Yacht Club and a long-term member of the Monterey Bay Aquarium. I am a supporter of Save The Bay in San Francisco and Save the Bay, Narragansett Bay in Rhode Island. I am a

member of Sail Newport and the Herreshoff Maritime Museum in Rhode Island. I have also served as a board member of the Marine Science Institute in Redwood City. My wife and I have been fortunate to reside in Redwood Shores, steps away from the San Francisco estuary, for more than 20 years. We also spend several months a year living by the water on the Sakonnet in Rhode Island enabling us to be closer to family for part of the year.

The comments that follow are based on many years of living on and near the San Francisco Bay & Estuary. They are formed after being involved with many organizations and people dedicated to both promoting better understanding, responsible activities and productive use of this precious and unique resource. Our continued viability as residents of the Bay Area and those of future generations depend on us all getting activities near and around this bay and estuary right.

Mark Sanders

I have known Mark Sanders since I first arrived in the Bay Area in 1983. He was first my boss, later my mentor and then my good friend. We have worked, sailed, cruised and spent great times together and with our families. We have helped each other through tough times too. Together we have built teams and companies. We have restored and preserved old boats others would have abandoned. We have shared the challenges of running large companies and as well as building small ones into bigger sustainable organizations. In business working together, we have helped create many jobs. We have not always agreed nor have we always had success. I think I know Mark as well as anyone and fortunately count him as a true friend. In short, we have lived full lives and (mostly) enjoyed our times together for almost 35 years.

In all the years we have known each other, I have known Mark to be a person of the highest integrity. When we do disagree, I have always known that it was from a different perspective and not one of self-promotion or avarice. I also know, that when Mark believes he is right, he will not sacrifice his principles for short term resolution of any major issue even if that is the expedient thing to do. Doing what is right, and doing it the right way, is what guides my friend Mark Sanders. This highest of qualities is I believe often to his financial detriment. However, it is always a credit to him and what he is about. I know there are literally thousands of people Mark has touched in this way who will gladly testify to these qualities and how Mark approaches his responsibilities. They range from people we have met in our work in the global media and video markets, to people and institutions we encountered in technology, finance, and legal professions as well as environmental groups, government agencies, government staff and elected representatives.

I have NEVER found a situation where Mark was unable to sort out a difficult problem and bring equitable resolution to even the most difficult dispute. I have NEVER known anyone that could not be brought to a place of agreement and reasonableness in any major disagreement or problem that Mark has encountered. Until now. In my considered opinion, the Staff of the BCDC, and specifically the enforcement staff, is contorting the mission of the BCDC for some misguided purpose and must be held accountable and reined in by the Commission before more serious damage is done.

Westpoint Harbor - The Marina Project

Mark started discussing the need for this resource in the late 1980's when we worked together at AMPEX in Redwood City. Marinas were disappearing at an alarming rate. We visited abandoned facilities in Alviso and Palo Alto. Together, we mourned the loss of Peninsula Marina and others we and our friends had relied upon. In those days, we feared the loss of Pete's Harbor, a long-standing Bay Area institution. Mark anticipated that without some creative action, people would

simply have no way to easily access the South Bay and enjoy the bay as we did. We feared sailing and boating might be lost to us and future generations. The need to simply get a boat repaired or hauled out for maintenance was (and is) something impossible to do in the South Bay.

We saw the needs for more not less education. Access to the water is critical to understanding the fragile ecosystem of the Bay. We learned this when we served together on the board of the Marine Ecological Institute (now Marine Science Institute or MSI). We worked hard to find a way to help this great learning institution survive and thrive. Thankfully, due to the efforts of thousands of supporters, MSI has continued to meet its exceptional educational objectives. Tens of thousands of students and their parents now know the unique needs and wonders of the San Francisco Estuary because of MSI.

From the late 1980's, Mark worked tirelessly and selflessly on the Marina Project and what was to become Westpoint Harbor. MANY times, during those days I urged him to let it go. It was simply too hard to see the path towards achieving his goal. There were countless issues to resolve and massive red tape to unravel to gain needed approvals. The financial commitment would be massive and I could not see a way to navigate towards a viable venture. Mark never wavered. His vision and goal were clear: The South Bay needed the "Marina Project", otherwise we and future generations would lose access to the Bay. Future generations would never have a sense of what a quiet morning rowing, sailing or paddling on Redwood Creek means. They might never know what an estuary was and why the San Francisco Bay Estuary is vital living here. Seeing is believing. They needed to see and experience the San Francisco Bay Estuary for it to be preserved. Plus, it was fun to be on the Bay! MSI was a taste of the ecosystem and created generations who would appreciate what was going on under the water. The Marina Project would provide a way for them and their families to continue to experience and appreciate just how special this bay and estuary can be and provide a base to pass on this appreciation to others. Literally, done right, it was key to enabling the estuary to survive and thrive well into the future by creating generations of avid supporters.

Mark ALWAYS had in mind that the Marina Project was a reclamation project, not a development project. Early on he found the technology needed to reclaim what was a toxic waste site and create new pristine bay water surface area. He found a way to creatively accomplish dewatering the site and building Westpoint Harbor once approvals were obtained, in years instead of decades. He found an environmentally sensitive path to meet the needs of the environment, the estuary and future members of the Westpoint Harbor community.

Environmental concerns were always at the top of his list of critical success factors. From the reuse of fill from excavations in Redwood City to help compress the soggy mess he inherited, to providing a safe, simple & clean way to pump waste from boats in the harbor, Mark spared no expense and made no compromise. This was to be a model to be followed and emulated. He had many setbacks over several DECADES before there was water flowing into Westpoint Marina. Mark persevered. He risked literally everything he had financially to bring his dream to life. At many points it appeared hopeless and the project would not survive or be completed. Mark had success in business before Westpoint Harbor started to be built, but financial gains were mostly plowed back into the Westpoint Marina Project. He took on no debt or financial partners I know of to complete the project. He took this risky approach so he could pursue his goals without compromise or undue influence. "Do it right and do the right thing" has always been part of Mark's philosophy over the more than three decades I have known, worked and sailed with him.

Finally, late one December night in 2006, I stood with Mark at the bottom of the empty Westpoint Harbor basin. Huge excavators were pulling at the levee facing Westpoint slough. It

was time. The next tide would bring the waters of San Francisco Bay and the full force of the Pacific flowing into the new harbor basin. I was excited; Mark was a wreck. Why I asked? This is what you worked for over 25 years! Mark tuned to me and confided: 'This was never done before. I'm really worried it won't work. That tide may just wash all this back into the bay.' Crazy I said. This was reviewed by the best engineering firms on the planet. It's been vetted by scores of agencies and their teams. This is the best marina ever conceived! Still Mark was despondent. We went to have a beer and a "last meal" before the next tide. Mark slept in his truck that night I went home.

Overnight, Westpoint Marina was "born". There was now 30 surface acres of water where a toxic dump once stood. The waters in Westpoint harbor were as tranquil as a lake. I returned at dawn. Fittingly at sunrise, it was just me and a few sandpipers admiring what Mark and his team of experts and contractors created. After the basin was full, sometime in the middle of the night, Mark was retrieved by his family. He slept the sleep of the just the next day, all day, satisfied his plan had worked! I said it was fitting Sandpipers welcomed that first day when Westpoint Harbor was "baptized" by all that water. When I first met Mark and we sailed together on his old meticulously restored classic sailboat boat which was of course called "Sandpiper".

Westpoint Harbor – Community

I read the requested cease and desist order as drafted with astonishment! The issues raised are not substantial and appear contrived to me after seeing the "Marina Project" conceived, built, and come to life. It was to be, and is now, an environmentally sensitive enhancement to the Westpoint Slough ecosystem and the San Francisco Bay Estuary. This was no accident. ALL agencies involved in reviewing and approving the Marina Project that became Westpoint Marina, including BCDC, helped form the plans and improved on the initial designs. This was an inclusive iterative effort that spanned DECADES!

The agencies, environmental groups and government representatives were more than just supportive of this project. Comments like "model for all" and "heroic" and "awesome project" were used to describe it. It has won awards for design and accolades from all who are now part of the Westpoint community. AND it is a diverse community! From the boaters who dock there, to the organizations that are welcomed there to use the facility for rowing, paddling, and other competitions, to the many clubs that sail in, Westpoint Harbor is viewed now as a jewel and the best destination in the South Bay. Unfortunately, through neglect and lack of planning, investment and innovation, Westpoint Harbor has little competition for this honor. That is a shame. The South Bay is one of the most beautiful parts of this great estuary and there ought to be more ways for people to experience it. Mark has shown the way; others need to follow.

Everyone who uses this incredible facility and has been there even once, I know would remark if asked, that this is "the best marina there is on the Bay". I have heard this from seasoned sailors and long-term San Francisco Bay residents. Westpoint Harbor has been born and thrives now with no financial backing save from Mark Sanders. Still corners were not "cut" at all. In fact, you will find round corners on every finger pier, something you will not see almost anywhere else. Why? It's the "right way to do it and the right thing to do" for the users. It's certainly not the least expensive corner to build. These docks are also cement, not wood that rots in a few years. They are safe and stable. They are the best. They are not the least expensive. They are better for the environment and our personal safety.

Our community is thriving at Westpoint Harbor! Yet the facility is still a work in progress. There is much to do. The vision is even bigger than what we see built there now. There is a vitality and “can do” spirit that Mark has imbued to everyone who comes to visit or to become a longer-term member of the Westpoint Harbor community. We have an eclectic and ever-changing mix of diverse people who represent the pioneering spirit of California and the entrepreneurial spirit of Silicon Valley. It is an open welcoming community sharing their love of the water and a commitment to do the right thing to preserve this resource for future generations.

BCDC

The pending Staff actions are sapping both its limited resources and those of the Westpoint community. The “violations” Staff seeks to remedy seem minor and not significant at all to anyone who has any real experiences on the bay and at Westpoint Harbor. The effort mounted to defend Westpoint is also substantial and costly. There appears no reasonable end in sight, since there seems to be no one with authority at BCDC who wishes to reach any amicable solution. **You commissioners can remedy this injustice!**

Mark Sanders will always listen to a rational argument. If Westpoint Harbor was adversely and unduly harming the environment, and I have yet to see any evidence of these sorts of transgressions, Mark will be the first one to work aggressively to protect and defend the environment. Remember he converted a toxic dump into 30 acres of pristine bay surface water. It took DECADES of thankless effort and massive commitment of his personal financial resources to accomplish this amazing goal. What we have now is a gift to the San Francisco Estuary ecosystem to be admired, emulated and leveraged. It is instead being attacked by the very agency that has the most to gain from more projects just like Westpoint Harbor. Where else has in all of California has anything close to project’s scale and vision been completed especially considering it was all done with 100% private funding?

I am convinced that Mark and the BCDC are on the same page with many of the same stated philosophies and values. Somehow, this is being missed by Staff. To make my point even more clearly, here are a few items stated publically by the Commission that also support the philosophy and activity at Westpoint Harbor:

The Commission website notes:

The Commission has been remarkably successful in achieving its mission. Before 1965, an average of about 2,300 acres of the bay were being filled each year. Now only a few acres are filled annually-all for critical water-oriented needs. Even this small loss of water area is being mitigated by opening diked areas. As a result, the Bay is now larger than it was when BCDC was established.

Westpoint’s contribution to MORE not less bay surface water is well documented. It is totally in keeping with the mission of BCDC.

Another great achievement noted on that same website:

The Commission has also approved thousands of new boat berths and has required that public access be provided along 139 miles of the shoreline as part of new waterfront projects.

Again, Westpoint Harbor is part of these same “wins” for the Bay and is totally consistent with the goals of the Commission.

And one last excerpt from that website pointing out a key activity of BCDC:

...By preventing wetlands and mudflats from being filled, by encouraging restoration of degraded marshes, by supporting the continued and productive use of salt ponds...

Westpoint reclaimed a toxic site, rather than fill mudflats. It increased flow in Westpoint Slough. What could be a more productive use of a reclaimed toxic pond dump site than turning it into 30 acres of pristine surface bay water? Westpoint is a shining example of exactly what BCDC wants to achieve.

Finally, a key point which is made in the June 2017 strategic plan:
BCDC cannot fulfill its statutory responsibility to lead the Bay Area's response to rising sea level with our current level of resources and existing technologies. The success of this 2017-2020 BCDC Strategic Plan Update depends upon acquiring additional resources and expanding staff capacity.

Respectfully, what is Staff doing wasting precious resources and time and requiring huge commitment of resources by Westpoint Harbor to address small non-critical or even harmful issues related to the harbor? What damages and environmental harm has Westpoint Harbor caused? What action has Westpoint Harbor or Mark Sanders taken that is at odds with the mission and strategy of BCDC? Is this activity more critical than the important work of addressing and mitigating the impact of climate change on the San Francisco Bay Estuary? That important work is life and death for us all! Is diverting resources to the current Westpoint enforcement issues really important at all to this mission? I am baffled and have no rational answer to this obvious question.

Respectfully, it is the fiduciary responsibility of the Commissioners to answer this question now, before even more harm can be done.

Conclusion

Ironically Mark Sanders and the community of Westpoint Harbor share a vision with the BCDC. It was stated eloquently in the June 2017 strategic plan:

VISION: Be the national model for coastal management. MISSION: To protect and enhance the San Francisco Bay, and encourage the responsible and productive use of its resources for this and future generations

Westpoint Harbor is the recognized leader in how development on and near a fragile estuary can be done responsibly and successfully. It's time for the Staff of the BCDC to recognize that Westpoint Harbor is a jewel in the bay to be leveraged not disparaged and brought down. Staff ought to be spending its resources propagating the learning from the creation and operation of Westpoint Harbor so other responsible projects can be implemented. Mark Sanders deserves recognition and thanks. Instead he is being forced into an outrageously costly defense for actions completely consistent with the stated mission of the BCDC. I call on the BCDC commissions to get involved, stop this madness and work cooperatively with Mark Sanders and the Westpoint Harbor community to continue the excellent work embodied in Westpoint Harbor and extend its lessons to other projects around the bay

Thank you in advance for your consideration to this critical matter.

Bob Wilson
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Media

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